

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TRUSTEES OF THE NORTHEAST CARPENTERS
HEALTH, PENSION, ANNUITY, APPRENTICESHIP,
and LABOR MANAGEMENT COOPERATION FUNDS
f/k/a PATRICK MORIN, JOSEPH OLIVIERI as
TRUSTEES OF THE EMPIRE STATE CARPENTERS
WELFARE, PENSION, ANNUITY, SCHOLARSHIP,
APPRENTICE-TRAINING, LABOR-MANAGEMENT
COOPERATION, AND THE CHARITABLE TRUST
FUND,

Plaintiffs,

-against-

MCINTOSH INTERIORS, LLC and ERIKA BARNETT,

Defendants.

20 CV _____

COMPLAINT

Plaintiffs, Trustees of the Northeast Carpenters Health, Pension, Annuity, Apprenticeship, and Labor Management Cooperation Funds f/k/a Patrick Morin, Joseph Olivieri as Trustees of the Empire State Carpenters Welfare, Pension, Annuity, Scholarship, Apprentice-Training, Labor-Management Cooperation, and the Charitable Trust Fund (“Plaintiffs” or the “Funds”), by and through their attorneys, Virginia & Ambinder, LLP, as and for their Complaint, respectfully allege as follows:

NATURE OF THE ACTION

1. On January 13, 2010, the Funds obtained a judgment against McIntosh Interiors, LLC (“McIntosh”) and Erika Barnett (“Barnett”) in the United States District Court for the Eastern District of New York in the amount of \$67,987.82 (the “Judgment”). The Funds seek an order, pursuant to Section 5014 of the New York Civil Practice Law and Rules (“CPLR”) to renew the Judgment.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action as the Court has subject matter jurisdiction to enforce a judgment entered by the Court. *See Epperson v. Entm't Express, Inc.*, 242 F.3d 100, 104 (2d Cir. 2001).

3. Venue is proper in this judicial district pursuant to 29 U.S.C. § 1391(b)(2) as the Judgment was entered in this judicial district and as the events underlying the Judgment occurred in this judicial district.

THE PARTIES

4. The Funds are multiple labor-management trust funds organized and operated in accordance with the Employee Retirement Income Security Act and Section 302(c) of the Labor Management Relations Action, 29 U.S.C. § 186(c). The Funds maintain a principal place of business and are administered at 270 Motor Parkway, Hauppauge, New York 11788.

5. Defendant McIntosh is a for profit business organized under the laws of the State of New York, with its principal place of business at 253B Beach Breeze Lane, Arverne, New York 11692.

6. Barnett is an individual who, upon information and belief, resides at 3703 Avenue I, Unit B, Brooklyn, New York 11210.

STATEMENT OF FACTS

7. McIntosh was a signatory to, or otherwise bound by, a collective bargaining agreement under which it was required to remit benefit contributions to the Funds.

8. McIntosh failed to remit all required benefit contributions to the Funds, and the Funds filed a lawsuit to recover the unpaid benefits and related amounts.

9. On January 13, 2010, the Funds obtained the Judgment against Defendants in the United States District Court for the Eastern District of New York in the amount of \$67,987.82 (the “Judgment”). A copy of the Judgment is attached hereto as **Exhibit A**.

10. The Funds previously collected \$17,120.95 toward the Judgment.

FIRST CLAIM FOR RELIEF

11. CPLR § 5014 authorizes a judgment creditor to renew a judgment for an additional twenty years, provided that the action to renew the judgment is commenced “during the year prior to the expiration of ten years since the first docketing of the judgment.”

12. In accordance with CPLR § 5014, the Funds are bringing this action during the year prior to the expiration of ten years since the first docketing of the Judgment.

13. The Funds are entitled to a renewal judgment against Defendants in the amount of the full unsatisfied portion of the Judgment plus interest of 9% per annum running from the date of the docketing of the original judgment. *See Cadle Co. v. Biberai*, 307 A.D. 2d 889 (1st Dep’t 2003).

WHEREFORE, the Funds respectfully request that the Court (i) enter an order awarding a renewal judgment against Defendants in the amount of \$50,866.87 plus interest thereon at the rate of 9% per annum from January 13, 2010 and (ii) award the Funds such other and further relief as the Court deems just and proper.

Dated: New York, New York
January 13, 2020

Respectfully submitted,

VIRGINIA & AMBINDER, LLP

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